IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.5387 of 2005
in
FIRST APPEAL NO.923 OF 1987.

Ashok Madhukarrao Ambedkar ..Applicant

versus

Meeratai Y. Ambedkar & Ors. ..Respondents

Mr.S.A.Sawant with B.K.Barve for the Applicant

Mr.S.N.Gawade AGP for the Respondent

Coram : S.R.Sathe, J.
Dated : 1st Mar, 2006

P.C.

1. Heard both the learned Advocates.

2. As the appeal filed by the Appellant Ashok Madhukarrao Ambedkar was dismissed for default for not paying paper book charges, he has filed the present civil application for setting aside the said order and also for condoning the delay in filing this application.

3. The application is strongly opposed by the respondents. It is their contention that applicant is no more the Chairman of Buddhist Society of India and is in fact not entitled to file the present

application. It is also contended that the application is not signed by him and as such the same is liable to be dismissed.

4. From the perusal of the record it is very clear that the appeal was filed by Ashok Madhukarrao Ambedkar, Chairman, Buddhist Society of India. Accordingly, he has been shown as appellant in First Appeal No.923 of 1987. The present application for setting aside the dismissal order is filed by Ashok Madhukarrao Ambedkar, then Chairman and trustee of Buddhist Society of India. So, as per the procedure the same ought to have been signed by him, but it is very clear that the application is not at all signed by Ashok Madhukarrao Ambedkar. It appears to have been signed and verified by one Avinash Kamble. It was tried to be argued that the Power of Attorney holder can file the application for restoration or setting aside the dismissal order. So, in the instant case the power of attorney should have been issued by Ashok Madhukarrao Ambedkar in the name of Avinash Kamble, but no such power of attorney is produced on record. Moreover, even in case when application is to be filed by the power of attorney holder for the original appellant or applicant then the title must also indicate the name of the

original applicant or appellant and state further, ‘through its power of attorney’. In the instant case if we see the title then it is only mentioned "Ashok Madhukarrao Ambedkar, then Chairman and trustee, Buddhist Society". This subseqeunt line is also introduced by way of amedment. So, the application in its present form is not maintainable. Hence dismissed.

(S.R.Sathe, J.)